

COUNTY OF MAUI

ELECTIONS RELATED CHARTER

PROVISIONS

Excerpted from: Maui County Charter
2003 Edition

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ARTICLE I INCORPORATION AND GEOGRAPHICAL LIMITS

Section 1-1. Incorporation. The people of the county of Maui, as a basis for this incorporation, confirm the equal worth and dignity of every individual, and by this charter shall be and continue as a body politic and corporate by the name of "County of Maui", hereinafter in this charter called "county". By that name it shall have perpetual succession. (Amended 2002)

Section 1-2. Geographical Limits. The Islands of Maui, Moloka'i, Lāna'i, and Kaho'olawe and all other islands lying within three nautical miles off the shores thereof and the waters adjacent thereto, except that portion of the Island of Moloka'i known as Kalaupapa, Kalawao and Waikolu, and commonly known and designated as the Kalaupapa Settlement, shall constitute the county.

ARTICLE 2 POWERS OF THE COUNTY

Section 2-1. Powers of the County. The county shall have all powers possible for a county to have under the constitution and laws of the State of Hawai'i. These powers shall include, but shall not be restricted to, or by, the following: all powers now or hereafter given by the constitution or other laws, and all other powers not prohibited by such constitution or by this charter, to the county or its agencies, or to counties or county agencies, and all powers necessary and proper to carry into execution other powers of the county. The county shall have all such powers as fully and completely as though they were specifically enumerated in this charter; and no enumeration of powers in this charter shall be deemed exclusive or restrictive.

Section 2-2. Exercise of Powers. All powers of the county shall be carried into execution as provided by this charter, or, if the charter makes no provisions, as provided by ordinance or resolution of the county council.

ARTICLE 3 COUNTY COUNCIL

Section 3-1. Composition. There shall be a council composed of nine members who shall be elected-at large. Of the nine members elected to the council, one shall be a resident of the Island of Lānaʻi, one a resident of the Island of Molokaʻi, one a resident of the residency area of East Maui, one a resident of the residency area of West Maui, one a resident of the residency area of Makawao-Haʻikū-Pāʻia, one a resident of the residency area of "Upcountry" comprising Pukalani-Kula-ʻUlupalakua, one a resident of the residency area of South Maui, one a resident of the residency area of Kahului, and one a resident of the residency area of Wailuku-Waiheʻe-Waikapū. The county clerk shall prepare the nomination papers in such a manner that candidates desiring to file for the office of council member shall specify the residency area from which they are seeking a seat. The ballots shall, nevertheless, be prepared to give every voter in the county the right to vote for each and every council seat.

1. The East Maui (Hana-Keanae-Kailua) residency area shall be described as follows:

Beginning at shoreline and Kakipi Gulch
Proceed to Kepuni Gulch
North along Kepuni Gulch to Kahikinui Forest Reserve boundary
Easterly along Kahikinui Forest Reserve boundary to Haleakalā National Park boundary
Northwest, west, northerly, then southeast along Haleakalā National Park boundary to Waikamoi Stream
North along Waikamoi Stream and continuing due west to Kaʻiliʻili Road
West on Kaʻiliʻili Road to Opana Gulch
North along Opana Gulch to jeep trail
Easterly on jeep trail to Pālama Gulch then northeasterly to Halehaku Gulch
North along Halehaku Gulch to Kakipi Gulch
North along Kakipi Gulch to point of beginning

2. The West Maui residency area shall be described as follows:
Beginning at shoreline and Lahaina-Wailuku District boundary at Poʻelua Bay
Proceed south along boundary to shoreline (Manawainui Gulch)
Northwest, north, then northeast along shoreline to point of beginning
(includes the islands of Molokini and Kahoʻolawe)

3. The Wailuku-Waihe'e-Waikapū residency area shall be described as follows:

Beginning at shoreline and Lahaina-Wailuku District boundary
Proceed southeast along shoreline to Kanaloa Avenue extension
Southwest on Kanaloa Avenue extension to Kahului Beach Road
Southeast on Kahului Beach Road to Ka'ahumanu Avenue
West on Ka'ahumanu Avenue to Mahalani Street
Southwest on Mahalani Street to Pu'umele Street
Southwest on Pu'umele Street to Wai'inu Road
West on Wai'inu Road to Wai'ale Road
South on Wai'ale Road to East Waikō Road
East on East Waikō Road to Kū'ihēlani Highway
Southwest on Kū'ihēlani Highway to Honoapi'ilani Highway
South on Honoapi'ilani Highway to Pohākea Gulch
West, then northwest along Pohākea Gulch to point of beginning

4. The Kahului residency district area shall be described as follows:

Beginning at shoreline and Kanaloa Avenue extension
Proceed east along shoreline to Kanahā Beach Park boundary
Southeast along Kanahā Beach Park boundary to Kalialinui Gulch
Southeast along Kalialinui Gulch to Haleakalā Highway
Southeast on Haleakalā Highway to Lowrie Ditch
Southwest along Lowrie Ditch to Spanish Road
West, then northwest on Spanish Road to East Waikō Road
West on East Waikō Road to Wai'ale Road
North on Wai'ale Road to Wai'inu Road
East on Wai'inu Road to Pu'umele Street
North on Pu'umele Street to Mahalani Street
East, then north on Mahalani Street to Ka'ahumanu Avenue
East on Ka'ahumanu Avenue to Kahului Beach Road
Northwest on Kahului Beach Road to Kanaloa Avenue extension
Northeast on Kanaloa Avenue extension to point of beginning

5. The South Maui residency area shall be described as follows:
Beginning at Lahaina-Wailuku District boundary and Pohākea Gulch

Proceed southeast, then east along Pohākea Gulch to Honoapi'ilani Highway
North on Honoapi'ilani Highway to Kū'ihēlani Highway
Northeast on Kū'ihēlani Highway to East Waikō Road
East on East Waikō Road to Spanish Road
Southeast, then east on Spanish Road to Lowrie Ditch
South along Lowrie Ditch to Pūlehu Gulch
Southeast along Pūlehu Gulch to Waiakoa Road
South on Waiakoa Road to Kīhei CDP boundary
South along Kīhei CDP boundary to unnamed road

Southwest, then south on unnamed road to unnamed stream (west of Keonekai Road)
 East on unnamed stream to Kula Highway
 Southwest on Kula Highway to jeep trail (abutting Tiger 2000 line 85098642)
 West, then south on jeep trail to Kanaio-Kalama Park Road ('Ulupalakua Road)
 Southeast along Kanaio-Kalama Park Road to Pi'ilani Highway
 Southeast, then east on Pi'ilani Highway to Kepuni Gulch
 Southeast along Kepuni Gulch to shoreline
 Southwest, west, north, northwest, southwest then northwest along shoreline to Lahaina-Wailuku District boundary (Manawainui Gulch)
 North along boundary to point of beginning

6. The Makawao-Ha'ikū-Pā'ia residency area shall be described as follows:

Beginning at shoreline and Kanahā Beach Park boundary
 Proceed east along shoreline to Kakipi Gulch
 South along Kakipi Gulch to Halehaku Gulch
 South along Halehaku Gulch to Pālama Gulch
 Southeast along Pālama Gulch to unnamed jeep trail
 Northwest, then southwest along jeep trail to Opana Gulch
 South along Opana Gulch to Ka'ili'ili Road
 East on Ka'ili'ili Road to Waikamoi Stream
 South along Waikamoi Stream to Haleakalā National Park boundary
 Northwest, then southwest along Haleakalā National Park boundary to Kailua Gulch
 Northwest along Kailua Gulch to Lowrie Ditch
 Southwest along Lowrie Ditch to Haleakalā Highway
 Northwest along Haleakalā Highway to Kalialinui Gulch
 Northwest along Kalialinui Gulch to `Āmala Place
 Northwest along Kanahā Beach Park boundary to point of beginning

7. The Upcountry (Pukalani-Kula-'Ulupalakua) residency area shall be described as follows:

Beginning at Lowrie Ditch and Kailua Gulch
 Proceed southeast along Kailua Gulch to Haleakalā National Park boundary
 Southwest, southeast, east, then southwest along Haleakalā National Park boundary to Kahikinui Forest Reserve boundary
 Southwest along Kahikinui Forest Reserve boundary to Kepuni Gulch

South along Kepuni Gulch to Pi'ilani Highway
 West on Pi'ilani Highway to Kanaio-Kalama Park Road
 ('Ulupalakua Road)
 Northwest along Kanaio-Kalama Park Road to jeep trail
 Northeast on jeep trail to Kula Highway (abutting Tiger 2000 line
 85098642)
 Northeast along Kula Highway to unnamed stream
 Northwest, then west along unnamed stream to unnamed jeep trail
 North on unnamed jeep trail to unnamed road
 North on unnamed road to Kihei CDP boundary
 North on Kihei CDP boundary to Waiakoa Road
 North on Waiakoa Road to Pūlehu Gulch
 Northwest along Pūlehu Gulch to Lowrie Ditch
 North, then northeast along Lowrie Ditch to point of beginning
 (Amended 2002, 1998, 1992, 1990)

Section 3-2. Election of Council and Term of Office.

1. Council members shall be elected by nonpartisan special elections. Such special elections shall be held in conjunction with the primary and general elections every two (2) years commencing in 2000. The special election held in conjunction with the primary election every two (2) years shall be known as the first special election. The special election held in conjunction with the general election every two (2) years shall be known as the second special election.
2. The names of all candidates for each council seat shall be placed on the ballot for the first special election; provided, that for any council seat with two or fewer candidates, the names of the candidates shall appear only on the ballot for the second special election.
3. For any council seat with three or more candidates, the names of the two candidates receiving the highest number of votes for each council seat in the first special election shall be placed on the ballot for the second special election; provided, that if two or more candidates tie for the highest number of votes received in the first special election, the names of the candidates tied for the highest number of votes shall be placed on the ballot for the second special election; and further provided, that if a single candidate receives the highest number of votes in the first special election and two or more candidates tie for the second-highest number of votes received, the names of the candidate receiving the highest number of votes and the candidates tied for the second-highest number of votes shall be placed on the ballot for the second special election.
4. At the second special election, the candidates receiving the highest number of votes for each council seat shall be deemed elected. If there is no more than one candidate for a council seat, such person shall be deemed elected regardless of the number of votes received.
5. The term of office of council members shall be for two (2) years, beginning at twelve o'clock meridian on the second day of January following their election. No member of the county council shall serve more than five consecutive full terms of office. (Amended 1998, 1992)

Section 3-3. Qualifications. To be eligible for election or appointment to the council, a person must be a citizen of the United States, a voter in the county, a resident of the county for a period of ninety (90) days next preceding the filing of nomination papers and at the time of filing of nomination papers a resident in the area from which the person seeks to be elected. If a council member ceases to be a resident of the county, or ceases to be a resident of the council member's residency area during the council member's term of office, or if a council member is adjudicated guilty of a felony, the council member shall immediately forfeit office and the seat shall thereupon become vacant. (Amended 1992)

Section 3-4. Vacancy in Office. A vacancy in the office of any council member shall be filled for the remainder of the unexpired term in the following manner:

1. If the unexpired term is less than fifteen (15) months, the remaining members of the council shall appoint a person by resolution adopted by a majority of its remaining members to fill the vacancy for the current unexpired term. Should the council fail to fill any vacancy within thirty (30) days after its occurrence, the mayor shall appoint a person to fill the vacancy for the current unexpired term. The person appointed by the council or mayor shall have the same qualifications required of a candidate elected by the voters.

2. If the unexpired term is fifteen (15) months or more, the vacancy shall be filled by a special election to be called by the council within thirty (30) days and to be held within ninety (90) days after the occurrence of the vacancy. The electors of the county shall then elect a successor with requisite qualifications to fill the vacancy for the remainder of the term. At the special election, the candidate receiving the highest number of votes shall be deemed elected. (Amended 1998)

ARTICLE 7 OFFICE OF THE MAYOR

Section 7-1. Organization. The office of the mayor shall consist of a mayor and necessary staff.

Section 7-2. Election of Mayor and Term of Office.

1. The mayor shall be elected by nonpartisan special elections. Such special elections shall be held in conjunction with the primary and general elections every four (4) years commencing in 2002. The special election held in conjunction with the primary election every four (4) years shall be known as the first special election. The special election held in conjunction with the general election every four (4) years shall be known as the second special election.

2. The names of all candidates for mayor shall be placed on the ballot for the first special election; provided, that if there are two or fewer candidates, the names of the candidates shall appear only on the ballot for the second special election.

3. If there are three or more candidates, the names of the two candidates receiving the highest number of votes in the first special election shall be placed on the ballot for the second special election; provided, that if two or more candidates tie for the highest number of votes received in the first special election, the names of the candidates tied for the highest number of votes shall be placed on the ballot for the second special election; and further provided, that if a single candidate receives the highest number of votes in the first special election and two or more candidates tie for the second-highest number of votes received, the names of the candidate receiving the highest number of votes and the candidates tied for the second-highest number of votes shall be placed on the ballot for the second special election.

4. At the second special election, the candidate receiving the highest number of votes shall be deemed elected. If there is no more than one candidate for mayor, such person shall be deemed elected regardless of the number of votes received.

5. The voters of the county shall elect a mayor whose term of office shall be four (4) years beginning at twelve o'clock meridian on the second day of January following the mayor's election. A mayor shall not serve more than two consecutive full terms of office. (Amended 1998)

Section 7-3. Qualifications. Any citizen of the United States who is a voter of the county and a resident of the county for a period of at least ninety (90) days next preceding the filing of nomination papers shall be eligible to be mayor. Upon removal of the mayor's residence from the county, the mayor shall by that fact be deemed to have vacated the office of mayor. If the mayor ceases to be a voter of the county or is adjudicated guilty of a felony, the mayor shall immediately forfeit the office of mayor.

Section 7-4. The Salary of the Mayor. The salary of the mayor shall be determined by the salary commission. (Amended 1986)

Section 7-5. Powers, Duties and Functions. The mayor shall be the chief executive officer of the county. The mayor shall:

1. Exercise supervision directly or through the managing director over all departments enumerated in Article 8 of this charter and other agencies as provided by law.

2. Appoint the necessary staff for which appropriations have been made by the council.

3. Create positions for which appropriations have been made, or abolish positions, but a report of such actions shall be made to the council within fifteen (15) days of such actions.

4. Make temporary transfers of positions between departments or between subdivisions of departments.

5. Recommend to the council a pay plan for all county employees and officers whose pay is not otherwise provided for by law.

6. Prepare and submit an operating budget and a capital program annually to the council for its consideration pursuant to Article 9.

7. Control, manage and execute the annual operating budget and capital program.

8. Conduct a systematic and continual review of the finances, organizations, and methods of each department of the county to assist each department in achieving the most effective expenditure of public funds and to determine that such expenditures are in accordance with the budget laws and controls in force.

9. Prepare and process applications for state, federal or other governmental funds on behalf of the county.

10. Assign powers, duties, and functions that are not already assigned or enumerated in Article 8, to and between the departments.

11. Sign instruments requiring execution by the county, including deed and other conveyances, except those which the director of finance or other officer is authorized by this charter, ordinance or resolution, to sign.

12. Present messages or information to the council which, in the mayor's opinion, are necessary or expedient.
13. In addition to the annual report, make periodic reports informing the public as to county policies, programs and operations.
14. Approve or veto bills passed by the council.
15. Have a voice but no vote in the proceedings of all boards and commissions.
16. Enter into bilateral and multilateral contracts with other counties, the State, or the United States for the performance of any function or activity which the county is authorized to perform.
17. Enforce the provisions of this charter, the ordinances of the county and all applicable laws.
18. Exercise such other powers and perform such other duties as may be prescribed by this charter or by law. (Amended 1984)

Section 7-6. Vacancy in Office.

1. A vacancy in the office of mayor shall be filled for the remainder of the unexpired term in the following manner:
 - a. If the unexpired term is less than one (1) year, the managing director shall act as mayor. If the office of managing director is vacant or during such periods that the managing director is unable to so act, the director of finance shall then act as mayor.
 - b. If the unexpired term is one (1) year or more, the vacancy shall be filled by a special election to be called by the council within thirty (30) days and to be held within ninety (90) days after the occurrence of the vacancy. The electors of the county shall then elect a successor with requisite qualifications to fill the vacancy for the remainder of the term. In the event no candidate receives at least a majority of the votes cast to fill the vacancy then within fifteen (15) days after said election the council shall call for a run-off election to be held within forty-five (45) days of the first election. The candidates in said election shall be the two candidates receiving the most number of votes in the first election. If any special or general election is to be held in the county after thirty (30) days and within one hundred eighty (180) days after the occurrence of the vacancy, then the election shall be held in conjunction with such other election.
2. Pending the election of a mayor in the case of a vacancy or in the temporary absence of the mayor from the State, or a temporary disability of the mayor, the managing director shall act as mayor. If there is no managing director or if the managing director is unable to act, the finance director shall act as mayor. In the event of the temporary absence of the mayor from the county, or temporary leave, the mayor may designate the managing director or, in the managing director's absence or unavailability, the finance director to act as mayor. (Amended 1988)

ARTICLE 8 COUNTY DEPARTMENTS

The county departments hereinafter described are hereby recognized and continued.

CHAPTER 3 DEPARTMENT OF THE PROSECUTING ATTORNEY

Section 8-3.2. Prosecuting Attorney. The prosecuting attorney shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council. The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least three years. (Amended 1992)

CHAPTER 18 SALARY COMMISSION

Section 8-18.1. Organization and Functions. There shall be a salary commission, which shall consist of nine members appointed by the mayor with the approval of the council. The members of this commission shall have five-year terms, and can be reappointed once to a second five-year term. Two members shall be appointed or reappointed each year, except that only one member shall be appointed or reappointed every fifth year. The commission shall determine the compensation of elected officials and appointed directors and deputy directors of all departments of the county provided, however, in establishing the compensation of appointed department heads and their deputies, the salary commission shall consult with those boards and commissions which have appointing authority for department heads. (Amended 2002, 1992, 1984)

Renumbering of section effective 07/01/07.

ARTICLE 10 CODE OF ETHICS

Section 10-1. Declaration of Policy. Elected and appointed officers and employees shall demonstrate by their example the highest standards of ethical conduct to the end that the public may justifiably have trust and confidence in the integrity of government.

Section 10-3. Financial Disclosure.

1. All elected county officers, all candidates for elective county office and such appointed officers or other employees as the council shall designate by ordinance shall file with the board of ethics and the county clerk financial disclosures in a form or forms to be prescribed by the board of ethics. Such financial disclosures shall be open to public inspection.

2. All members of boards and commissions established under this charter, and such appointed officers or other employees as shall be designated by the council by ordinance as having significant discretionary or fiscal powers shall file with the board of ethics confidential financial disclosures in a form or forms to be prescribed by the board of ethics which disclosures shall not be open to public inspection provided that the names of all persons required to file confidential financial disclosures, the dates by which the disclosures are required to be filed, and the dates on which the disclosures are actually filed, shall be open to public inspection.

3. All persons required herein to make financial disclosures shall file such disclosures within fifteen (15) days of taking office or within fifteen (15) days of filing nomination papers as a candidate for an elected county office. The disclosure shall be sworn to under oath and shall include, but not be limited to, sources and amount of income, business ownership, officer and director positions, ownership of or interest in real property, debts, creditor interests in insolvent businesses, the names of persons represented before government agencies, and such other information as shall be prescribed by the board of ethics. (Amended 1994, 1992)

Section 10-5. Penalties. Any person who violates the provisions of this Article shall be subject to a fine to be provided for by ordinance adopted by the county council, and in addition to any such fine that may be imposed, non-elected officers or employees may be suspended or removed from office or employment by the appropriate appointing authority and elected officers may be removed through impeachment proceedings pursuant to Section 13-13.

ARTICLE 11 INITIATIVE

Section 11-1. Powers.

1. The voters of the county shall have power to propose ordinances to the council. If the council fails to adopt an ordinance so proposed without any change in substance, the voters may adopt the same at the polls, such power being known as the initiative power.

2. The voters shall have power to propose the reconsideration by the county of an adopted ordinance or any portion thereof. If the county fails to repeal an ordinance so reconsidered the voters shall have the power to reject the same at the polls, such power also being known as the initiative power.

3. The initiative power shall not extend:

- a. To any part or all of the capital program or annual budget;
- b. To any property tax levied;
- c. To any ordinance making or repealing any appropriation of money;
- d. To any ordinance authorizing the issuance of bonds;
- e. To any ordinance authorizing the appointment of employees; or,
- f. To any emergency ordinance. (Amended 2002)

Section 11-2. Affidavit. Any five qualified voters may commence initiative proceedings by filing with the county clerk an affidavit stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed ordinance, or citing the ordinance or portion thereof sought to be reconsidered. In addition the affidavit shall state that they:

1. Will constitute the petitioners' committee;
2. Will be responsible for circulating the petition; and
3. Will file it in proper form.

Promptly after such affidavit is filed, the clerk shall issue the appropriate petition blanks to the petitioners' committee.

Section 11-3. Petitions.

1. Petitions shall be filed as one instrument and shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

2. Such petitions must be signed by not less than twenty percent (20%) of the total number of voters who cast ballots in the last mayoral general election.

3. Each signature shall be followed by the printed or typewritten identification of the name of the individual signing the petition and that individual's place of residence.

4. To each such petition paper there shall be attached an affidavit of the circulator stating:

- a. That he or she personally circulated the paper;
- b. The number of signatures thereon;

c. That all the signatures were affixed in his or her presence and that he or she believes them to be the genuine signature of the person whose name it purports to be; and,

d. That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered. (Amended 2002)

Section 11-4. Filing and Certification.

1. Within one hundred eighty (180) days after the filing with the county clerk of the affidavit described in Section 11-2, all papers forming an initiative petition shall be assembled and filed with the county clerk as one instrument. If an individual who has signed the petition wishes to withdraw the individual's signature from the petition, written notice of the withdrawal must be filed with the county clerk of the county within fifteen (15) days after the filing of the affidavit described in Section 11-2.

2. Within forty-five (45) days after the petition is filed, the county clerk shall determine the sufficiency thereof and attach thereto a certificate showing the result of the county clerk's examination. If the county clerk certifies that the petition is insufficient, the county clerk shall set forth in the certificate the particulars in which the petition is defective, and shall promptly send it to the petitioners' committee. (Amended 2002)

Section 11-5. Supplementary Petitions.

1. In the event the initial petition contains insufficient valid signatures, it may be supported by supplemental signatures of voters signed in the manner required in Section 11-3 of this Article. Such supplementary signatures shall be appended to the initial petition at any time within twenty (20) days after receipt by the petitioners' committee of notification that the county clerk has certified the initial petition insufficient.

2. The clerk shall within ten (10) days after such supplementary signatures are filed make a like examination of them and shall promptly issue a certificate as to their sufficiency. Such certificate shall be sent to the petitioners' committee.

3. If a petition or supplemented petition is certified insufficient, or if a petition or supplemented petition is certified insufficient and the petitioners' committee does not elect to amend or request council review as provided hereinafter, the clerk shall promptly present the clerk's certificate to the council. The certificate shall then be a final determination as to sufficiency. Such determination, however, shall be subject to judicial review by a court of competent jurisdiction. A final judicial determination of insufficiency shall not prejudice the filing of a new petition for the same purpose.

Section 11-6. Action on Petitions.

1. When an initiative petition has been finally determined sufficient, the council shall promptly consider the proposed ordinance or reconsider the ordinance or portion thereof sought to be reconsidered. If the council fails to enact a proposed ordinance without change in substance, or fails to repeal the

referred ordinance or portion thereof within sixty (60) days after the date the petition was finally determined sufficient, the county clerk shall submit the proposed or referred ordinance to the voters of the county at the next general election; provided that, if the next general election is scheduled to occur within ninety (90) days, the county clerk shall submit the proposed or referred ordinance to the voters of the county at the succeeding general election. Copies of the proposed ordinance or referred ordinance shall be published in a newspaper of general circulation in the county at least forty-five (45) days prior to submission to the voters and shall be made available at the polls.

2. An initiative petition may be withdrawn at any time prior to the ninetieth (90th) day preceding the day scheduled for a vote of the county by filing with the county clerk a request for withdrawal signed by at least eighty percent (80%) of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated. (Amended 2002)

Section 11-7. Results of Election. If a majority of the qualified electors voting on a proposed ordinance vote in its favor, it shall be considered enacted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Section 11-8. Publication: Repeal and Amendment. Initiative ordinances enacted by the voters shall be published and shall take effect as prescribed for ordinances generally. Any ordinances enacted pursuant to this article may be amended or repealed by ordinance enacted after one (1) year from the date of certification, but only by the affirmative vote of at least two-thirds of the council membership. (Amended 2002)

ARTICLE 12 RECALL

Section 12-1. Recall Procedure. Any elective officer or member of a board or commission provided for in this charter may be removed from office by the voters of the county. The procedure to effect such removal shall be in accordance with this Article.

Section 12-2. Affidavit. An affidavit shall be made by one or more voters and filed with the county clerk, stating the name and office of the officer sought to be removed.

Section 12-3. Petitions.

1. A petition demanding that the question of removing such officer be submitted to the voters shall be addressed to the council and filed with the county clerk. Such petition papers shall be obtained from the county clerk, who shall keep a sufficient number of blank petition papers on file for distribution.

2. Such petitions shall be signed by not less than twenty percent (20%) of the voters registered in the last general election.

3. Each signature shall be followed by the place of residence and voting precinct of the person signing.

4. To each such petition paper there shall be attached an affidavit of the circulator thereof stating:

a. The number of signers to such part of the petition;

b. That each signature appended to the paper was made in the circulator's presence and is believed to be the genuine signature of persons whose name it purports to be;

c. That each signer is believed to have understood the nature of the recall petition.

Section 12-4. Filing and Certification.

1. Within thirty (30) days after the filing with the clerk of the affidavit stating the name and office of the officer sought to be removed, all papers comprising a recall petition shall be assembled and filed with the county clerk as one instrument.

2. Within twenty (20) days from the date of the filing of such petition, the county clerk shall determine the sufficiency thereof and attach thereto a certificate showing the result of the clerk's examination. If the county clerk certifies that the petition is insufficient, the clerk shall set forth in the certificate the particulars in which the petition is defective, and shall return a copy of the certificate to the person designated in such petition to receive it.

Section 12-5. Supplemental Petitions.

1. In the event the initial petition contained insufficient signatures, such recall petition may be supported by supplemental signatures of voters signed in the manner required in section 12-3 of this Article. Such supplementary signatures shall be appended to petitions issued, signed, and filed as required for the original petition at any time within twenty (20) days after the date of the certificate of insufficiency issued by the county clerk.

2. The county clerk shall within ten (10) days after such supplemental petitions are filed make a like examination of them. If the clerk's examination shall show the same to be still insufficient, the clerk shall return it in the manner described in Section 12-4 of this Article, and no new petition for the recall of the officer sought to be removed shall be filed within one (1) year thereafter.

Section 12-6. Recall Election. If a recall petition or supplemental petition shall be certified by the county clerk to be sufficient, the county clerk shall at once submit the petition with the certificate to the council and shall notify the officer sought to be recalled of such action. If the officer whose removal is sought does not resign within five (5) days after such notice, the council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than sixty (60) nor more than ninety (90) days after the petition has been presented to the council, at the same time as any other election held within such period; but if no election is to be held within such period, the council shall call a special recall election to be held within the time aforesaid. If less than fifty percent (50%) of the voters registered in the last general election shall vote at such recall election, the officer sought to be recalled shall not be deemed recalled regardless of the outcome of the election.

Section 12-7. Ballots. The ballots at such recall election shall, with respect to each person whose removal is sought, submit the question: "Shall (name of person) be removed from the office (name of office) by recall?" Immediately following each such question, there shall be printed on the ballots the two propositions in the order set forth: "I favor the removal of (name of person)," "I am against the removal of (name of person)." Next to the proposition shall be placed a square in which the voters, by marking an X mark, may vote for either of such propositions. A majority vote shall be sufficient to recall such officer, subject to the provisions of Section 12-6 of this Article.

Section 12-8. Succeeding Officer. The incumbent, if not recalled in such election, shall continue in office for the remainder of the unexpired term subject to the recall as before, except as provided in this charter. If recalled in the recall election, the officer shall be deemed removed from office upon the announcement of the official canvass of that election, and the office shall be filled as provided by this charter for the filling of vacancies of elected officials or members of boards and commissions as the case may be. The successor of any person so removed shall hold office during the unexpired term of that person's predecessor.

Section 12-9. Immunity to Recall. The question of the removal of any officer shall not be submitted to the voters until such person has served six (6) months of the term during which the officer is sought to be recalled, nor, in case of an officer retained in a recall election, until one (1) year after that election.

ARTICLE 13 GENERAL PROVISIONS

Section 13-11. County Elections. County elections shall be conducted in accordance with the election laws of the State.

Section 13-12. Oaths of Office. Before entering upon the duties of office, each officer elected or appointed shall take and subscribe to such oath or affirmation as shall be provided by law.

Section 13-13. Impeachment of officers. Appointed or elected officers may be impeached for malfeasance, misfeasance or nonfeasance in office or violation of the provisions of Article 10. Such impeachment proceedings shall be commenced in the Circuit Court of the Second Circuit, State of Hawai'i. The charge or charges shall be set forth in writing in a verified petition for impeachment signed by not less than five percent (5%) of the voters registered in the last general election. A charge or charges alleging violation of Article 10 may be set forth in writing in a verified petition for impeachment signed by a majority of the members of the board of ethics. If the court sustains the charge or charges, such officer shall be deemed removed from office. The officer sought to be impeached and the petitioners seeking the impeachment other than the board of ethics shall bear their own attorney's fees and other costs of such proceedings.

ARTICLE 14 CHARTER AMENDMENT

Section 14-1. Initiation of Amendments. Amendments to this charter may be initiated only in the following manner:

1. By resolution of the council adopted after two readings on separate days and passed by a vote of six or more members of the council.
2. By petition presented to the council, signed by not less than ten percent (10%) of the voters registered in the last general election, setting forth the proposed amendments. Such petitions shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments which may be made by the corporation counsel.

Upon filing of such petition with the council, the county clerk shall examine it to see whether it contains a sufficient number of apparently genuine signature of voters. The clerk shall complete the examination of the petition within fifteen (15) days.

The council shall then hold a public hearing and shall determine whether the amendments proposed shall be submitted to the voters for approval. The determination by the council to submit such proposed amendments to the voters shall be by resolution adopted by a vote of five or more members of the council within forty-five (45) days after the receipt of the petition.

3. By petition presented to the county clerk, signed by not less than twenty percent (20%) of the voters registered in the last general election, setting forth the proposed amendments. Such a petition shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments which may be made by the corporation counsel.

Upon filing such petition, the county clerk shall examine it to see whether it contains a sufficient number of apparently genuine signatures of voters. The clerk shall complete the examination of the petition within fifteen (15) days.

When the petition has been determined sufficient by the county clerk, the county clerk shall submit the proposed amendments to the voters of the county at the next general election. (Amended 1992)

Section 14-2. Elections to be Called.

1. Any resolution of the council proposing amendments to the charter, whether initiated by the council or by petition, shall provide that the proposed amendments shall be submitted to the voters of the county at the next general election.

2. The county clerk shall have the proposed amendments published in a newspaper of general circulation in the county at least forty-five (45) days prior to submission of the proposed amendments to the voters of the county at the next general election.

3. Should the majority of the voters voting thereon approve the proposed amendments to this charter, the amendments shall become effective at the time fixed in the amendment, or if no time is fixed therein, thirty (30) days after its adoption by the voters of the county. Any charter amendment shall be published in a newspaper of general circulation in the county within forty-five (45) days of the effective date of such amendment.

Section 14-3. Mandatory Review. Not later than the first day of March, 2001, the mayor, with the approval of the council, shall appoint a charter commission composed of eleven members to study and review the operation of the government of the county under this charter.

The commission may propose amendments to the charter or draft a new charter which shall be submitted to the county clerk within sixteen (16) months after such commission has been appointed. Upon receipt of the amendments or new charter, the county clerk shall provide for the submission of such amendments or new charter to the voters of the county at any general or special election as may be deemed by the commission. Any special election shall be held not less than forty-five (45) days and no more than seventy-five (75) days after the receipt of the amendments or the new charter by the county clerk.

The commission shall publish not less than forty-five (45) days before any election, at least once in the newspaper of general circulation within the county, a brief digest of the amendments or new charter and notice to the voters that copies of the amendments or new charter are available at the office of the county clerk.

Following any special or general election on any proposed charter, or revision or amendment thereto, at intervals of ten (10) years, the mayor, with the approval of the council, shall appoint a charter commission composed of eleven members to study and review the operation of the government of the county under such amendments or new charter and to propose amendments or to draft a new charter in the manner hereinabove set forth. (Amended 1992)